

LAW OFFICES

SHOOK, HARDY & BACON LLP

GENEVA
HOUSTON
KANSAS CITY
LONDON
MIAMI

HAMILTON SQUARE
600 14TH STREET NW SUITE 800
WASHINGTON, D.C. 20005-2004
TEL/EPUONE (202) 783-8400 ■ FACSIMILE (202) 783-4211

NEW ORLEANS
OVERLAND PARK
SAN FRANCISCO
TAMPA
WASHINGTON, D.C.

Robert M. Gurss
(202) 662-4856
gurss@shb.com

RECEIVED

March 7, 2003

MAR - 7 2003

D'Wana Terry, Chief
Public Safety & Private Wireless Division
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: PR Docket No. 92-257

Dear Ms. Terry:

On behalf of Mobex Communications, Inc. ("Mobex"), this letter is to request Commission clarification regarding the status of two specific Automated Maritime Telecommunications System (AMTS) "fill-in" sites, pending resolution of the Mobex Petition for Reconsideration in the above-referenced proceeding.

In the *Fifth Report and Order*, FCC 02-74 (released April 8, 2002), the Commission adopted rules to establish new geographic area "overlay" licenses for AMTS service, and to protect incumbent site-specific AMTS licensees from interference to their 38 dBu contours. Mobex filed a Petition for Reconsideration of that decision, urging that interference protection should be to the 17 dBu contours of incumbent stations which were licensed and operate pursuant to such 17 dBu contours. During our recent *ex parte* meeting, you indicated that Commission resolution of the pending Petition for Reconsideration may not occur for several months.

Previously, the Commission authorized AMTS licensees to add fill-in sites within the composite interference contour of their existing system, and eliminated application requirements for such sites. *Fourth Report and Order in PR Docket No. Y2-257*, 15 FCC Red 22585 (2000); See 47 C.F.R. §80.475(b). This letter concerns two such fill-in sites that Mobex constructed and placed into operation in 2001, at locations in Boston, MA, and Washington, DC. The Boston fill-in site is within the 17 dBu service contour of a pre-existing Mobex site at Rehobeth, MA (WRV374-35), and the Washington, DC fill-in site is within the 17 dBu service contour of a pre-existing Mobex site at Manassas, VA (WRV374-2). However, as indicated in the attached contour maps, these fill-in sites are either just beyond (Boston) or just barely within (Washington) the 38 dBu contours of the relevant licensed sites.

Mobex requests clarification that these constructed fill-in sites will be protected from interference regardless of the outcome of its pending Petition for Reconsideration. Even if the Commission re-affirms 38 dBu as the incumbent interference protection contour, these fill-in

2000 OTI

SHOOK, HARDY & BACON LLP

D'Wana Terry, Chief

March 7, 2003

Page 2

sites should be protected as the sites were constructed and placed in operation consistent with then-controlling Commission rules. The only relevant interference contour existing at that time (prior to the *Fifth Report and Order*) was the contour upon which the Commission had granted Mobex's licenses (17 dBu). Any such fill-in site built within that 17 dBu contour should be protected from interference. If the Commission reaffirms the 38 dBu standard, then the same protection should be afforded the Boston and Washington fill-in sites. The parameters for these sites are attached hereto.

Mobex requests clarification on this issue at this time as it is about to authorize substantial equipment upgrades to the relevant fill-in site, including installation of the new Motorola Passport technology. However, Mobex, its vendors, and its customers, are reluctant to commit new resources to these sites without assurances that they will be protected from interference, regardless of the outcome of the pending Petition for Reconsideration. These customers include a company intending to use the Mobex network to provide communications services to public safety agencies in New England.

Mobex also notes that this requested clarification does not address or otherwise resolve the continuity of service issues raised in its pending Petition for Reconsideration.

The Clerk, Mobex would greatly appreciate your prompt consideration of this request. Please contact the undersigned should the Commission have any questions regarding this matter.

Respectfully submitted,


Robert M. Guss
Counsel for **Mobex** Communications, Inc

Enclosures

cc: Scott Stone

Mobex Fill-in Sites

<u>City</u>	<u>St</u>	<u>Call Sign</u>	<u>Freq.[MHz]</u>	<u>ERP [W]</u>	<u>Latitude</u>	<u>Longitude</u>	<u>AGL [ft]</u>	<u>AMSL [ft]</u>
Boston (Rehobeth fill-in)	MA	WRV374-35	217.0000	1000	42-21-31.0 N	71-03-41.0 W	564	630
Rehobeth	MA	WRV374-35	217.0000	1000	41-51-54.4 N	71-17-13.2 W	400	587
Washington (Manassas fill-in)	DC	WRV374-2	217.0000	1000	38-55-48.7 N	77-04-18.3 W	211	595
Manassas	VA	WRV374-2	217.0000	1000	38-54-23.4 N	77-40-19.0 W	120	1318

03/06/03 - kfd, original version.



